IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 27TH JULY 2006 / 5TH SRAVANA 1928

Bail Appl..No. 4437 of 2006

AGAINST THE ORDER IN BA.2602/2006
(CRIME NO.32/2006 OF THIRUNELLY POLICE STATION)

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PETITIONERS/ACCUSED

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1. P.JAYAKUMAR,
   S/O.P.V.PAULOSE, AGED 42 YEARS,
   PUTHETHU HOUSE,OONNUKAL P.O.,
   KUTTAMANGALAM VILLAGE, KOTHAMANGALAM TALUK,
   ERNAKULAM DISTRICT.

2. BABU THOMAS,
   S/O.THOMAS,AGED 38 YEARS,
   PARIYANICKAL HOUSE,THARIODE P.O.,
   POZHUTHANA (VIA),VYTHIRI TALUK,WAYANAD.

3. C.A.PAPPACHAN,
   S/O.OUSEPH, AGED 61 YEARS,CHULLIYIL HOUSE,
   NEELESWARAM P.O.,KALADY VILLAGE, ALWAYE TALUK,
   ERNAKULAM DISTRICT.

BY ADV. SRI.K.BALACHANDRAN (PN)

RESPONDENTS: COMPLAINANT

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1. THE STATION HOUSE OFFICER,
   THIRUNELLY POLICE STATION, WAYANAD.

2. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR K. RAVIKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/07/2006, ALONG WITH B.A.NO.4441/06, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. Nos. 4437/06 & 4441/06

DATED THIS THE 27TH DAY OF JULY, 2006

O R D E R

The petitioners 1 to 3 are accused 2, 3 and 4 in O.R.No.1/2006 of Begur Forest Range, Mananthavdy, Wayanad. The offence alleged against them are under Section 27(1) (c) (iii) and (iv) of the Kerala Forest Act. It is alleged that the first accused was a contractor, to cut and remove the Eucalyptus Billets, from the Muthumary Range to Hindustan Newsprint Limited.

2. The prosecution submits that 119 passes had issued for transportation of the billets in the lorries arranged by the second accused, a Sub Contractor under the first accused. First petitioner herein is the second accused, the Sub Contractor. The petitioners 2 and 3 are the accused 3 and 4, the employees of the Sub contractor. The records reveal that 118 lorry loads of billets had reached the Newsprint factory. The second accused delivered 152 lorry loads of billets. As the passes issued

were only 119 in number, the accused had forged passes in transporting unauthorised billets from the forest area, on the guise of the contract, which the first accused was having, to remove billets from the forest range area. Therefore, the Range Officer of Begur Forest Range, registered the case as O.R.1/2006. Hence the petitioners are before this Court, under Section 438 Cr.P.C., praying that the petitioners may be released on bail in O.R.No.1/2006 in B.A.No.4441/2006.

3. The same petitioners are also accused in crime No.32/2006 of Thirunelly Police Station, for the offence punishable under Section 407 IPC read with Section 34 IPC. As the accused had committed criminal breach of trust, in respect of the property entrusted to them, the crime had been registered by the police, against the very same petitioners. Hence, separate bail application No.4437/2006 is preferred praying that they may be released on bail, in the event of their arrest, in crime No.32/2006 of Thirunelly Police Station.

4. Heard both sides. Considering the materials

in the C.D.file as well as the submissions made by the counsel for the petitioners, the following orders are passed:-

(a). The petitioners shall report before the Forest Range Officer of Begur Forest Range, on 31.7.2006 between 10.00 a.m and 11.00 a.m. The Forest Range Officer shall interrogate the petitioners, as per the law and thereafter, produce them before the Judicial Magistrate of First Class-II, Mananthavady. The Investigating Officer in O.R.No.1/2006, is at liberty to move that Court for custodial interrogation, if any, of the petitioners. In such event, the learned Magistrate shall pass orders on merit, after hearing both sides.

(b). The bail application, filed by the petitioners, shall also be considered by the learned Magistrate, according to the law. If the continued custody is not required or the prayer for the same is declined, the learned Magistrate shall release the petitioners on bail, imposing such conditions as are deemed necessary.

(c). The petitioners shall report before the investigating officer in crime No.32/2006 of Thirunelly Police Station, on 4.8.2006 between 10.00 a.m and 11.00 a.m. The investigating officer shall interrogate the petitioners and he shall also take into consideration, the investigation, that is being conducted by the Forest Range Officer, and the materials available with him. Thereafter, petitioners shall be produced before the Judicial Magistrate of First Class-II, Mananthavady. The learned Magistrate who is already seized with the matter in O.R.No.1/2006 and appreciated the facts placed before him, shall, therefore, release the petitioners on bail, in crime No.32/2006, imposing such conditions, as are deemed necessary.

Both the applications are disposed of as above.

J.M.JAMES
JUDGE

mrcs